THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 13118 of 2005

DATED: 27.10.2005

Between:

Vazeer Miya, S/o Chand Miya

...PETITONER

And:

The A.P. State Road Transport Corporation,

Reptd by its Managing Director, Musheerabad,

Hyderabad and three others.

...RESPONDENTS

ORDER:

Heard Sri A.K.Jayaprakash Rao, learned counsel for the petitioner and Smt P.Rajani Reddy, learned standing counsel for the respondent-Corporation.

In the year 1998-99 the petitioner was selected by a duly constituted committee for the post of Conductor as a regular employee and was issued posting orders from February, 2000. On 26.10.2004, during the course of his employment, the petitioner was conducting a bus on the route Basara to Vemulawada. The check of the bus was conducted by the checking officials of the respondent-Corporation. A charge memo was thereafter issued alleging certain irregularities, of not having issued a ticket to one of the passengers. The petitioner submitted an explanation denying the allegations. Thereafter, the

fourth respondent by an order dated 25.11.2004, recorded the issuance of the show cause notice, receipt of the petitioner's explanation to the show cause notice and recording a *ipse dixit* that the petitioner's explanation was not convincing and directed that the petitioner's name be deleted from the selection list with immediate effect. This decision was taken on the basis of "the information available and the circumstances," and this order also recorded that the petitioner's security deposit is forfeited to the Corporation funds. The petitioner was informed that an appeal against the order lay to the Divisional Manager-the third respondent. The petitioner preferred an appeal to the third respondent who by the order, dated 24.03.2005, recorded as under: -

> "This is an appeal preferred by Sri Vazeer Miya, E.321112, Ex-Conductor of Vemulawada Depot, was awarded with the penalty of Deletion of his name from the approved list through the reference 1st cited, by the Depot mnager, Vemulawada for involving in C & T irregularity.
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> In his appeal, the appellant has submitted that on 26.10.2004 the appellant was conduct the Bus No.AP15U-9899 on the route Vemulawada to Basara (down journey). The appellant was lady passenger along with 3 minor and not chargeable children boarded in the bus with luggage. They were boarded at Railway Station. The conductor were issued requisite ticket and while setting the luggage and accommodating the children, the lady passenger lost the ticket in hurry. Through it has been reduced in writing in the SR. A check was exercised at Fairabad and the lady passenger produced some other ticket as the ticket issued and misplaced the passenger. This is actual fact. Finally he has requested to consider his appeal on humanitarian grounds.
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> Perused the party's appeal. Also perused the subject case and the P-case. All evidences on record prove beyond reasonable doubt that the party is guilty of the misconduct of re-issue of ticket. His past record is also not encouraging in the least. Therefore, the action taken by Depot Manager, Vemulawada, is justified.
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> Hence, the appeal is rejected."

The petitioner thereafter preferred a review to the second respondent

under Regulation-29 of A.P.State Road Transport Corporation Civil Services (Classification, Control and Appeal) Rules read with Regulation-67. The second respondent by the order, dated 13.06.2005, rejected the review petition clearly recording a stigmatic conduct by the petitioner. The second respondent reiterated the conclusion of the third respondent that the petitioner is guilty of misconduct. He further gratuitously recorded that the petitioner's past record is also not encouraging. Though the order of the primary authority–the fourth respondent was not *per se* stigmatic, it is nevertheless penal in character having regard to the fact that the fourth respondent imposed a forfeiture of the petitioner's security deposit. Further, the fourth respondent clearly recorded that the deletion of the petitioner's name from the selection list is pursuant to a satisfaction arrived at, consequent on the show cause notice issued, the explanation submitted by the petitioner and the explanation having been found not satisfactory.

The fourth respondent abdicated the quasi judicial obligation to record reasons why he did not find the explanation of the petitioner satisfactory and the orders of the appellate and reviewing authorities place the matter beyond the pale of controversy insofar as the petitioner's removal, being penal, is concerned. Respondents 3 and 2 by the orders dated 24.03.2005 and 13.06.2005- the appellate and review orders, clearly recorded a finding of misconduct against the petitioner. As stated earlier, the second respondent had recorded that the petitioner's earlier past record is also not encouraging-whatever that meant.

A conspectus of the orders of respondents 4 to 2 – the primary, the appellate and the review authorities leaves no manner of doubt that the respondent-Corporation had imposed the extreme penalty of termination of the petitioner from service, who was regularly selected to a clearly vacant post after a due process of selection in the respondent-Corporation. In any view of the matter, regardless of the nature of the petitioner's tenure with the respondent-Corporation, as a public servant the petitioner was entitled to the constitutional

protections of a fair process of enquiry before stigmatized termination from a public office. It is undisputable and the demonstrated case of the petitioner that the extant service Regulations of the respondent-Corporation mandate a regular course of formal enquiry to precede an order of termination from service - an extreme penalty for established misconduct. This has clearly not been done.

The order of deletion of the petitioner's name from the selection list *qua* the orders of the fourth respondent dated 25.11.2004 as confirmed by the appellate orders of the third respondent dated 24.03.2005, as further affirmed by the review orders of the second respondent dated 13.06.2005 constitute order of termination from service and are therefore clearly unsustainable, beseech invalidation and are accordingly quashed. As the orders impugned have been invalidated on the ground of gross violation of the principles of natural justice and the explicit statutory obligation of the respondent-Corporation to conduct an enquiry, needless to state that the respondent-Corporation is at liberty to proceed against the petitioner in accordance with law.

The writ petition is accordingly allowed as above. No order as to costs.

(GODA RAGHURAM, J)

27.10.2005

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